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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSE HUGO GALICIA,

Defendant and Appellant.

A126787

(Sonoma County  
Super. Ct. No. SCR484143)

Defendant Jose Hugo Galicia appeals from a judgment and sentence following a guilty plea to one count of attempted murder and one count of assault with a firearm. His attorney has filed a brief raising no issues and asks this court to conduct an independent review of the record to identify any issues that could result in reversal or modification of the judgment if resolved in defendant's favor. (*People v. Kelly* (2006) 40 Cal.4th 106; *People v. Wende* (1979) 25 Cal.3d 436; see *Smith v. Robbins* (2000) 528 U.S. 259.) On April 19, 2010, we received a letter from defendant asking that we remove his appointed attorney because he believes she "didn't do a good job on this brief and could [have] done a much better one." He also asked the court for "a chance to go to trial or a re-sentencing" claiming that his trial attorney did not want to help him because he did not have money to pay him. He asks that we review the entire record and suggests that his motion to suppress was strongly supported.

We deny defendant's request to discharge his appointed counsel. We have reviewed the record and, as discussed in greater detail below, have determined that the issues he seeks to raise on appeal are not meritorious and that there are no arguable

grounds for reversal or modification of the judgment that require briefing by counsel. We have accepted defendant's letter as a statement of contentions why his convictions should be reversed. Accordingly, we shall affirm.

### **Factual and Procedural Background**

On March 17, 2006, at 1:44 p.m., a gang-related shooting occurred at a bus stop in the City of Santa Rosa. Several students reported seeing defendant driving in a blue Cadillac Escalade with codefendant Luis Ramon Guerrero-Lopez prior to the shooting.<sup>1</sup> One of the students recognized the men from a fight that had occurred a week prior. Other students reported seeing Guerrero-Lopez driving alone in the Escalade moments before defendant, wearing a blue bandana over part of his face, approached a group of approximately 10 to 15 students waiting at a bus stop and began shooting. Defendant fled the scene on foot.

Minutes after the shooting, a dispatch over the sheriff department's radio reported that the shooting suspects were driving "a blue Cadillac Escalade" and that the occupants of the car were "two Hispanic male[s] . . . possibly with shaved heads." About five minutes later, a sheriff's deputy saw a blue Escalade traveling away from the location of the shooting. The car was stopped about two and a half to three miles from the scene of the shooting. Defendant and Guerrero-Lopez were ordered out of the car, handcuffed and detained. Officers searched the car and found a revolver and a blue bandana in the backseat. After the car was stopped but before the car was searched, officers received additional information that one of the suspects was reported to have a tattoo on his face, near his eyes. Officers observed that both men were young, appeared to be Hispanic and had very short hair. Guerrero-Lopez had a tattoo under his eye.

Defendant was charged by information with 11 counts of attempted premeditated murder (Pen. Code,<sup>2</sup> §§ 664, 187, subd. (a)), 12 counts of assault with a fire arm (§ 245, subds. (a)(2)) and one count of participating in a criminal street gang (§ 186.22, subd.

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<sup>1</sup> Guerrero-Lopez also has an appeal pending that will be resolved by separate opinion.

<sup>2</sup> All statutory references are to the Penal Code unless otherwise noted.

(a)). The information alleged further that the attempted murders and assaults were committed for the benefit of a criminal street gang. (§ 186.22, subd. (b)(1)(c).) The information alleged with respect to the attempted murder charges, that a principal was armed with and discharged a firearm that resulted in great bodily injury (§ 120022.53, subds. (b), (c), (d) & (e)(1)) and with respect to the assault counts, that defendant personally used a firearm and inflicted great bodily injury (§§ 12022.5, 12022.7). Lastly, the information alleged that defendant was on bail at the time of the offenses. (§ 120022.1.)

Defendant moved to suppress the evidence against him on the ground that the detention and search of the car were unlawful. Although the trial court initially granted defendant's motion on the ground that there was no justification for the detention, this court issued an alternative writ of mandate directing the trial court to set aside its order. Our order explained, "Although the police did not have definite details of the crime when they effected the stop, it had been minutes since the crime occurred, providing a limited window within which to apprehend the perpetrators while they were likely to be fleeing. Given their knowledge of the car's description, its location, and the direction in which it was traveling, the police had reasonable suspicion to stop the vehicle." We expressed no opinion as to the validity of the subsequent search. Thereafter, defendant moved to suppress the evidence on the ground that the search of the car was unlawful. The trial court denied the motion.

On September 17, 2009, pursuant to a negotiated disposition calling for a 28-year prison sentence, defendant pled no contest to one count of attempted murder and one count of assault with a firearm and admitted one gang enhancement and one firearm enhancement. The remaining charges were dismissed.

Defendant filed a timely notice of appeal. Defendant did not request a certificate of probable cause.

### **Discussion**

By entering a guilty plea, defendant admitted the sufficiency of the evidence establishing the crime, and is not entitled to review of any issue that goes to the question

of guilt. (*People v. Hunter* (2002) 100 Cal.App.4th 37, 42.) Without a certificate of probable cause, defendant cannot contest the validity of his plea. Therefore, the only issues cognizable on appeal are those relating to the denial of the motion to suppress and to matters arising after the plea was entered. (§ 1237.5; Cal. Rules of Court, rule 8.304(b)(4).)

Upon our independent review of the record, we find no meritorious issues that require further briefing. Defendant's motion to suppress was properly denied. The officers had probable cause to arrest defendant prior to searching the car. (See *People v. Jones* (1981) 126 Cal.App.3d 308, 314 [probable cause to arrest existed where officer observed a car closely matching the dispatch description in the vicinity of the crime travelling in a direction consistent with escape from the scene and the occupants of the car matched the description of the suspects].) A "search incident to arrest" may be justified by "the need to preserve evidence for later use at trial." (*Knowles v. Iowa* (1998) 525 U.S. 113, 116.) Here, the officers reasonably believed that evidence linking defendant to the shooting could be found in the car. (See *Thornton v. United States* (2004) 541 U.S. 615, 632 [circumstances unique to the vehicle context justify a search incident to a lawful arrest when it is "reasonable to believe evidence relevant to the crime of arrest might be found in the vehicle"].)

Defendant was sentenced in accordance with the negotiated disposition, and at all times was competently represented by appointed counsel.

## Disposition

The judgment is affirmed.

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Pollak, Acting P.J.

We concur:

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Siggins, J.

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Jenkins, J.